

Docket No.: 33226/001001; P3791-US-NP
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of:
Pinneo et al.

Application No.: 09/708,100

Confirmation No.: 9615

Filed: Nov. 1, 2000

Art Unit: 1771

For: DIAMOND FOAM MATERIAL AND
METHOD FOR FORMING SAME

Examiner: Hai Vo

SUBMISSION FOR EXCUSE OF ERROR IN SMALL ENTITY STATUS
UNDER 37 C.F.R. §1.28(c)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Madam:

Pursuant to 37 C.F.R. §1.28(c), please accept this submission for excuse of error in small entity status and the deficiency payment for the fees erroneously paid as a small entity.

REMARKS

Applicants thank the Examiner for carefully considering this submission.

Background

The present Patent was filed on Nov. 1, 2000, and subsequently issued as Pat. No 6,749,931 on June 15, 2004. The Patent is jointly owned by P1 Diamond, Inc. and Sun Microsystems, Inc. *See* Assignment at Reel/Frame 011961/0017 and 011960/0986. Sun Microsystems was, and is, a large entity and all fees should have been paid as a large entity. However, in the Response to the Notice to file Missing Parts, dated July 3, 2001, the fees were paid as a small entity, and it was stated that the fees were being paid as a small entity. However, no statement claiming small entity status was filed at that time, as is required. Subsequently, throughout prosecution, the majority of fees were paid as though small entity status had been claimed and granted. When this mistake was noticed, an attempt was made to correct the mistake by paying the second annuity fee as a large entity. By way of this submission, Applicants request excuse of the error(s) of paying small entity fees during prosecution, as allowed by 37 C.F.R. § 1.28(c).

Excuse of Error in Small Entity Status

Please accept the deficiency payment of \$3,888 for the fees erroneously paid as a small entity for this patent using Deposit Account 50-0591 (Reference Number 33226/001001), as hereby authorized. Included below is the itemization of the deficiency payment as required by 37 C.F.R. §1.28(c)(2)(ii):

| Type of Fee | Date Paid | Original Payment Amount | Current Fee Amount | Amount Deficient |
|----------------------------------|------------------|--------------------------------|---------------------------|-------------------------|
| Filing Fee | 7/3/2001 | \$355 | \$380 | \$25 |
| Search Fee | N/A | \$0 | \$620 | \$620 |
| Examination Fee | N/A | \$0 | \$250 | \$250 |
| Additional Claims (7) | 7/3/2001 | \$63 | \$420 | \$357 |
| Additional Independent Claim (1) | 7/3/2001 | \$40 | \$250 | \$210 |
| 3 Mo. Extension of Time | 7/3/2001 | \$445 | \$1270 | \$825 |
| Surcharge | 7/3/2001 | \$65 | \$130 | \$65 |
| 2 Mo. Extension of Time | 11/7/2002 | \$200 | \$560 | \$360 |
| Additional Independent Claim (1) | 11/7/2002 | \$42 | \$250 | \$208 |
| Additional Independent Claim (1) | 6/9/2003 | \$42 | \$250 | \$208 |
| 1 Mo. Extension of Time | 7/25/2003 | \$55 | \$150 | \$95 |
| 1 st Maintenance fee | 12/6/2007 | \$465 | \$1130 | \$665 |
| TOTAL | | \$1772 | \$5660 | \$3888 |

Conclusion

Applicants believe this reply is fully responsive to the above issue. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Specifically, if a fee was erroneously paid as a small entity and does not appear on the above itemization, or any other issue arises, please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 33226/001001). Applicants request that the Patent Office correct the entity status of this patent, confirm that all fees now have been paid in full (at the appropriate large entity price), and excuse the past error(s) in entity status.

Dated: September 27, 2012

Respectfully submitted,

By /Robert P. Lord/

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